

EXHIBIT #5  
DATE Feb 1st  
None

House State Administration Committee – February 1, 2011

*Exhibits to statement by Robert Stutz, Chief Legal Counsel, Montana Legislative Branch*

<u>Exhibit Number</u>	<u>Description</u>
1	Detailed bill information – SB 117 (2003)
2	Bill text – SB 117 (2003)
3	Hearing information – Senate State Administration Committee – SB 117 (2003)
4	Hearing minutes – Senate State Administration Committee – SB 117 (2003)
5	Hearing information – House State Administration Committee – SB 117 (2003)
6	Hearing minutes – House State Administration Committee – SB 117 (2003)
7	Example – Montana Operations Manual proposed change – Implementing a Reduction in Force (November 1, 2010)

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# Montana Legislature

## Detailed Bill Information



2003  
Session

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**Bill Draft Number:** LC0241

[Current Bill Text](#)

**Bill Type - Number:** SB 117

**Short Title:** Exempt intra-governmental policies from MAPA

**Primary Sponsor:** John Cobb

## 2 Bill Actions - Current Bill Progress: Became Law

**Bill Action Count:** 40

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Action - Most Recent First	Date	Votes Yes	Votes No	Committee
Chapter Number Assigned	04/01/2003			
(S) Signed by Governor	03/31/2003			
(S) Transmitted to Governor	03/26/2003			
(H) Signed by Speaker	03/25/2003			
(S) Signed by President	03/25/2003			
(S) Returned from Enrolling	03/19/2003			
(C) Sent to Printing	03/18/2003			
(S) Sent to Enrolling	03/17/2003			
(H) Returned to Senate	03/15/2003			
(H) 3rd Reading Concurred	03/15/2003	91	5	
(H) Scheduled for 3rd Reading	03/15/2003			
(H) Placed on Consent Calendar	03/14/2003			
(H) Committee Report--Bill Concurred	03/12/2003			(H) State Administration
(H) Committee Executive Action--Bill Concurred	03/12/2003	19	0	(H) State Administration
(H) Hearing	03/12/2003			(H) State Administration
(H) Referred to Committee	03/06/2003			(H) State Administration

(H) First Reading	03/06/2003			
(S) Transmitted to House	01/23/2003			
(S) 3rd Reading Passed	01/23/2003	50	0	
(S) Scheduled for 3rd Reading	01/23/2003			
(S) 2nd Reading Passed on Voice Vote	01/22/2003	50	0	
(S) Scheduled for 2nd Reading	01/22/2003			
(S) Committee Report--Bill Passed	01/21/2003			(S) State Administration
(S) Committee Executive Action--Bill Passed	01/21/2003	5	0	(S) State Administration
(S) Hearing	01/17/2003			(S) State Administration
(S) First Reading	01/06/2003			
(S) Referred to Committee	12/30/2002			(S) State Administration
(C) Introduced Bill Text Available Electronically	12/20/2002			
(S) Introduced	12/20/2002			
(C) Pre-Introduction Letter Sent	12/19/2002			
(C) Pre-Introduction Letter Sent	10/31/2002			
(C) Draft in Assembly/Executive Director Review	10/31/2002			
(C) Draft in Final Drafter Review	10/29/2002			
(C) Bill Draft Text Available Electronically	10/29/2002			
(C) Draft in Input/Proofing	10/29/2002			
(C) Draft to Drafter - Edit Review [CAJ]	10/29/2002			
(C) Draft in Edit	10/29/2002			
(C) Draft in Legal Review	10/29/2002			
(C) Draft to Requester for Review	10/24/2002			
(C) Draft Request Received	06/21/2002			

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## Sponsor, etc.

Sponsor, etc.	Last Name/Organization	First Name	Mi
Requester	State Administration and Veterans' Affairs Interim Committee		
Drafter	MacMaster	John	
By Request Of	Department of Administration		

Primary Sponsor	Cobb	John	
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## Subjects

Description	Revenue/Approp.	Vote Majority Req.	Subject Code
State Government		Simple	STGO
Administrative Rules; Revision or Repeal		Simple	AR

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## Additional Bill Information

**Probable Fiscal Note:** No

**Preintroduction Required:** Y

**Session Law Ch. Number:** 181

### **DEADLINE**

**Category:** General Bills

**Transmittal Date:** 02/28/2003

**Return (with 2nd house amendments) Date:** 04/05/2003

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## Section Effective Dates

Section(s)	Effective Date	Date Qualified
All Sections	01-OCT-03	

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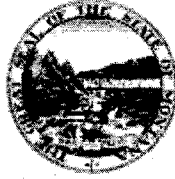
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## 2003 Montana Legislature

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SENATE BILL NO. 117  
INTRODUCED BY J. COBB  
BY REQUEST OF THE DEPARTMENT OF ADMINISTRATION

AN ACT PROVIDING THAT EXECUTIVE BRANCH AGENCY POLICIES, REGULATIONS, STANDARDS, AND STATEMENTS CONCERNING THE INTERNAL MANAGEMENT OF STATE GOVERNMENT AND NOT AFFECTING PRIVATE RIGHTS OR PROCEDURES AVAILABLE TO THE PUBLIC DO NOT CONSTITUTE RULES FOR PURPOSES OF THE MONTANA ADMINISTRATIVE PROCEDURE ACT; AND AMENDING SECTION 2-4-102, MCA.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 2-4-102, MCA, is amended to read:

**"2-4-102. Definitions.** For purposes of this chapter, the following definitions apply:

- (1) "Administrative rule review committee" or "committee" means the appropriate committee assigned subject matter jurisdiction in Title 5, chapter 5, part 2.
- (2) (a) "Agency" means an agency, as defined in 2-3-102, of the state government, except that the provisions of this chapter do not apply to the following:
  - (i) the state board of pardons and parole, except that the board is subject to the requirements of 2-4-103, 2-4-201, 2-4-202, and 2-4-306 and its rules must be published in the ARM and the register;
  - (ii) the supervision and administration of a penal institution with regard to the institutional supervision, custody, control, care, or treatment of youths or prisoners;
  - (iii) the board of regents and the Montana university system;
  - (iv) the financing, construction, and maintenance of public works;

(v) the public service commission when conducting arbitration proceedings pursuant to 47 U.S.C. 252 and 69-3-837.

(b) Agency does not include a school district, unit of local government, or any other political subdivision of the state.

(3) "ARM" means the Administrative Rules of Montana.

(4) "Contested case" means a proceeding before an agency in which a determination of legal rights, duties, or privileges of a party is required by law to be made after an opportunity for hearing. The term includes but is not restricted to ratemaking, price fixing, and licensing.

(5) (a) "Interested person" means a person who has expressed to the agency an interest concerning agency actions under this chapter and has requested to be placed on the agency's list of interested persons as to matters of which the person desires to be given notice.

(b) The term does not extend to contested cases.

(6) "License" includes the whole or part of an agency permit, certificate, approval, registration, charter, or other form of permission required by law but does not include a license required solely for revenue purposes.

(7) "Licensing" includes an agency process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal, limitation, transfer, or amendment of a license.

(8) "Party" means a person named or admitted as a party or properly seeking and entitled as of right to be admitted as a party, but this chapter may not be construed to prevent an agency from admitting any person as a party for limited purposes.

(9) "Person" means an individual, partnership, corporation, association, governmental subdivision, agency, or public organization of any character.

(10) "Register" means the Montana Administrative Register.

(11) (a) "Rule" means each agency regulation, standard, or statement of general applicability that implements, interprets, or prescribes law or policy or describes the organization, procedures, or practice requirements of an agency. The term includes the amendment or repeal of a prior rule.

(b) ~~but~~ The term does not include:

(a)(i) statements concerning only the internal management of an agency or state government and not affecting private rights or procedures available to the public, including rules implementing the state personnel classification plan, the state wage and salary plan, or the statewide budgeting and accounting system;

(b)(ii) formal opinions of the attorney general and declaratory rulings issued pursuant to 2-4-501;

(c)(iii) rules relating to the use of public works, facilities, streets, and highways when the substance of the rules is indicated to the public by means of signs or signals;

(d)(iv) seasonal rules adopted annually or biennially relating to hunting, fishing, and trapping when there is a statutory requirement for the publication of the rules and rules adopted annually or biennially relating to the seasonal recreational use of lands and waters owned or controlled by the state when the substance of the rules is indicated to the public by means of signs or signals; or

~~(e) rules implementing the state personnel classification plan, the state wage and salary plan, or the statewide budgeting and accounting system;~~

(f)(v) uniform rules adopted pursuant to interstate compact, except that the rules must be filed in accordance with 2-4-306 and must be published in the ARM.

(12) (a) "Significant interest to the public" means agency actions under this chapter regarding matters that the agency knows to be of widespread citizen interest. These matters include issues involving a substantial fiscal impact to or controversy involving a particular class or group of individuals.

(b) The term does not extend to contested cases.

(13) "Substantive rules" are either:

(a) legislative rules, which if adopted in accordance with this chapter and under expressly delegated authority to promulgate rules to implement a statute have the force of law and when not so adopted are invalid; or

(b) adjective or interpretive rules, which may be adopted in accordance with this chapter and under express or implied authority to codify an interpretation of a statute. The interpretation lacks the force of law."

- END -

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**Latest Version of SB 117 (SB0117.ENR)**

Processed for the Web on March 18, 2003 (8:56am)

New language in a bill appears underlined, deleted material appears stricken.

Sponsor names are handwritten on introduced bills, hence do not appear on the bill until it is reprinted.

See the [status of this bill](#) for the bill's primary sponsor.

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# Montana Legislature

## Action Details



2003  
Session

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**Bill Draft Number:** LC0241

**Bill Type - SB  
Number:** 117

**Action:** (S) Hearing

**Date:** 01/17/2003

**Hearing Room:** 335

**Hearing Time:** 3 P.M.

**Committee:** (S) State Administration

**Votes Yes:**

**Votes No:**

**Action Comments:**

**Report Number:**

**Hearing Cancelled**

**Date:**

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HEARING ON SB 117

**Sponsor:** SENATOR JOHN COBB, SD 25, AUGUSTA

**Proponents:** Janice Doggett, Chief Legal Council, Secretary of State (SOS); DAL SMILIE, Chief Legal Council, Department of Administration (DOA)

**Opponents:** None.

**Informational Witnesses:** Kathy Lubke, Records Management Bureau

**Opening Statement by Sponsor:** SENATOR JOHN COBB, SD 25, said SB 117 is a request by the Department of Administration (DOA) to provide that executive branch agency policies, regulations, standards and statements concerning internal management of state government, where it does not affect private rights or procedures available to the public, and does not constitute rules for the purposes of the Montana Administrative Procedure Act (MAPA). When an agency does rulemaking, certain procedures must be followed. In this case, the DOA is concerned about computer use between agencies. They wonder if computer activity should involve rulemaking procedures; if so, they are in violation. The DOA wants to make sure rulemaking doesn't apply to the internal management of an agency when private rights or procedures are not affected. They still plan to post changes and take comments. They do not want to have hearings in these cases.

SEN. COBB said he was interested in statements of opposition. He thinks SB 117 is all right, but is always hesitant about removing the public hearing process.

**Proponents' Testimony:** DAL SMILIE, Chief Legal Council, Department of Administration (DOA), reviewed the change in the bill. He distributed EXHIBIT(sts10a14) In 1995, HJR 5 eliminated unnecessary rules that created cost and confusion. SB 117 affects only policies and procedures internal to State government. If these were added to existing rules, costs would double or triple. The information will still be public because there is a Constitutional duty to tell people. Much of the information is already posted on the World Wide Web. SB 117 is a clean-up bill. Mr. Smilie asked the Committee to look closely at HJR 5 and the reasons given then for not greatly expanding the rules because they apply.

Janice Doggett, Chief Legal Council, Secretary of State (SOS), said the SOS supported SB 117. The Administrative Rules Bureau estimates that if the rules were increased by one volume, it would take at least eighty hours of staff time for the initial publication. It could permanently increase staff workload about

SENATE COMMITTEE ON STATE ADMINISTRATION

January 17, 2003

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4 33% because of density, and frequency of occurrence. **Kathy Lubke**, head of the Records Management Bureau was in Committee to answer questions. SB 117 speaks only to intra-government policy, and does not affect public policy. **Ms. Doggett** noted that expanding rulemaking would also increase the filing fees paid by state agencies to the SOS. Every agency that files a rule, pays a filing fee.

Opponents' Testimony: None.

5 Questions from Committee Members and Responses: **SEN. WHEAT** asked  
6 for clarification on Page 2. **Mr. Smilie** said when he drafted the  
7 bill, three words were changed, "or State government." The  
Legislative Services Division has made organizational changes,  
but nothing of substance. **SEN. WHEAT** asked how the three word  
change affected law. **Mr. Smilie** said that now the definition of  
rule is very broad: Internal to an agency, policy can be made  
(wear a tie; smile at the customers). A few agencies, such as the  
Secretary of State and Department of Administration, have  
policies that are intra-government; that is they affect other  
agencies. Where those policies also affect private rights, a MAPA  
rule will still be necessary.

Closing by Sponsor: **SENATOR COBB** closed the hearing.

The chair returned to **SENATOR COBB**.

Announcements: **CHAIRMAN COBB** said Executive Action would taken on SB 117, SB 132, SB 149 on Monday, January 20; and SB 8, SB 9, SB 142 on Wednesday, January 22.

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# Montana Legislature

## Action Details



2003  
Session

5

**Bill Draft Number:** LC0241

**Bill Type - SB**  
**Number:** 117

**Action:** (H) Hearing

**Date:** 03/12/2003

**Hearing Room:** 455

**Hearing Time:** 9 A.M.

**Committee:** (H) State Administration

**Votes Yes:**

**Votes No:**

**Action Comments:**

**Report Number:**

**Hearing Cancelled**

**Date:**

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HEARING ON SB 117

Sponsor: SEN. JOHN COBB, SD 25

Opening Statement by Sponsor:

1  
SEN. COBB said the main change is Page 2, Line 17, the definition of "rule." It does not include items of "only internal management of agencies." An example is computer-use policies or risk management policies. The bill does not limit the public's right to know; the information is all there on the web page. It just prevents having to publish policies as rules if the public is not affected. To publish rules takes months, then they have to be changed again.

{Tape: 1; Side: A; Approx. Time Counter: 23 - 28}

Proponents' Testimony:

Dal Smiley, Chief Legal Counsel, Department of Administration, supports the bill. He gave an exhibit.

EXHIBIT(sth52a03)

Janice Doggett, Chief Legal Counsel, Secretary of State, said it costs \$40 per page to publish in the Administrative Rules of Montana (ARM) so this makes sense.

{Tape: 1; Side: A; Approx. Time Counter: 28 - 32}

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

2  
REP. B. OLSON asked Mr. Smiley what effect this would have. Mr. Smiley said agencies would start culling rules without incurring costs. Very few agencies deal with other agencies; this will not affect most agencies. The **Sponsor** said it will not get rid of rules, just keep them from being made. It is preemptive. Private rights is a keyword.

CHAIRMAN BARRETT said that a few sessions back, the FWP pay plan would have raised salaries. It affected the general fund but there were no rules on that. Sponsor said there are gray areas. He deferred to **Lois Menzies, Executive Director of Legislative Services**, who said her division authorized Fish, Wildlife and Parks (FWP) to implement an alternative pay plan. They used the State Special Revenue Fund to pay. CHAIRMAN BARRETT asked if that was the only agency who used money earmarked for other use.

**Ms. Menzies** said there were grade increases for MDT engineers and for DPHHS nurses. Often the money used is Federal or State Special Authority under Title II. She said the State Fund was exempt from the State pay plan and laws governing other agencies. They can adopt their own pay schedule.

**{Tape: 1; Side: A; Approx. Time Counter: 32 - 44.4}**

**Closing by Sponsor:**

The sponsor asked for a House sponsor and REP. YOUNKIN agreed.

**EXECUTIVE ACTION ON SB 117**

**Motion/Vote:** REP. BROWN moved that SB 117 BE CONCURRED IN.  
Motion carried 19-0. Proxy votes were cast by REPS. A. OLSON and LENHART.

**Motion/Vote:** REP. YOUNKIN moved that SB 117 MOVE TO THE CONSENT CALENDAR. Motion carried 19-0. Proxy votes were cast by REPS. A. OLSON and LENHART.

**{Tape: 1; Side: A; Approx. Time Counter: 44.4 - 48}**

**EXECUTIVE ACTION ON SB 110**

**Motion:** REP. WAGMAN moved that SB 110 BE CONCURRED IN.  
Motion was withdrawn.

**EXECUTIVE ACTION ON SB 85**

**Motion/Vote:** REP. WAGMAN moved that SB 85 BE CONCURRED IN.  
Motion carried 19-0. Proxy votes were cast by REPS. A. OLSON and LENHART.

**Motion/Vote:** REP. BROWN moved that SB 117 MOVE TO THE CONSENT CALENDAR. Motion carried 19-0. Proxy votes were cast by REPS. A. OLSON and LENHART.

**EXECUTIVE ACTION ON SB 8**

**Motion:** REP. WAGMAN moved SB 8 BE CONCURRED IN.

**Discussion:** REP. BROWN said this legislation would not eliminate any legislator's position; she will vote no. REP. BECKER agreed and added it would be confusing if it ever goes to voters. REP. JENT agreed and added that it is not recommended to amend the constitution.

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Montana Operations Manual				Formatted Table
Implementing a Reduction in Force				
Policy Number	03-0156	First Issued	March 1982	
Issuing Authority	Department of Administration	Effective Date	November 19 2010	Deleted: April 15
		Last Revised	November 20 2010	Deleted: April
				Deleted:

**Policy Purpose:**

This policy establishes uniform agency procedures for conducting a reduction in work force in Montana state government.

**Scope:**

This policy covers all agencies employing employees who have attained permanent status in Montana's executive branch except those employed by the Montana university system and the Montana State Fund, the personal staff of elected officials, and any other position specifically excluded under Section 2-18-103 and 2-18-104, MCA.

Any collective bargaining agreement providing greater notice requirements supersedes this policy.

**Deleted:** If these policy provisions conflict with collective bargaining agreements, then the collective bargaining agreements take precedence

**Procedures:**

When reducing the workforce, agency managers shall consider the programs they administer and the staff structure that most efficiently accomplishes the agency's program objectives. Agency managers shall consider employees' skills, qualifications (including performance), and length of continuous service, among other factors, when making reduction in work force decisions.

Agency managers must provide laid-off employees with the required notice, benefits and reinstatement rights, as provided in this policy and by law.

**A. Skill Assessment:**

Agency managers shall first assess the skills and qualifications (including past performance) of employees when making reduction decisions. When making reduction in force decisions, managers should consider the following in relation to the remaining positions:

1. employees' qualifications and experience in performing the duties of the remaining positions;
2. employees' qualifications and experience that benefit the agency's future goals and objectives;
3. employees' skills to perform the specific tasks assigned to the retained position; and
4. employees' performance history.

**B. Length of Service:**

If the skills assessment does not adequately distinguish between

employees, agency managers shall then consider the employees' continuous length of service to make the decision.

**C. Veterans' Preference:** During a reduction in force, agency managers shall apply veterans' employment preference according to the provisions of 39-29-111, MCA and ARM 2.21.3623. Veterans' preference does not apply to a position covered by a collective bargaining agreement.

**D. Employee Notice:** Agency managers shall provide notice to the employee and/or the employee's collective bargaining agent as soon as possible and with written notice as follows:

1. at least 60 days in advance when 25 or more employees are affected; or
2. at least 14 days in advance when fewer than 25 employees are affected (2-18-1206, MCA).

Collective bargaining agreements may contain greater notice requirements and will supersede the above notice requirements.

**E. Lay Off or Leave Without Pay:** When agency managers anticipate the reduction will be more than 15 working days, they shall lay off the affected employees through a reduction in force. If they anticipate the reduction will last 15 working days or less, they shall place the employees in a leave without pay status.

**F. Prohibitions:** Agency managers may not use a reduction in force as an alternative to discharging an employee for cause or for other disciplinary purpose. Agencies shall refer to the Disciplinary Handling Policy when disciplining or terminating employees for cause (ARM 2.21.6501 et seq.).

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**G. Employee Benefits:** An employee who is laid off because of a reduction in force may choose either:

1. retirement benefits provided in statute at 19-2-706, MCA, if eligible; or
2. State Employee Protection Act benefits provided in statute at 2-18-1201 et seq., MCA.

**Retirement Benefits:** A laid-off employee who chooses the retirement benefits must be eligible for normal or early retirement as a member of the public employees', game wardens' and peace officers', sheriffs', firefighters' unified, or highway patrol officers' retirement systems.

The agency is required to contribute a portion of the total cost of up to three years of additional service that the laid-off employee is qualified to purchase (19-3-513, MCA). A laid-off employee may elect to pay the difference, if any, between the total actuarial cost and the agency contribution. If the employee does not pay the difference, the agency's contribution may not

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cover the total years of service the employee is eligible to purchase.

This benefit is subject to forfeiture if the employee returns to work for any state agency, including the university system, for 960 or more hours in a calendar year.

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**State Employee Protection Act Benefits:** A laid-off employee who chooses State Employee Protection Act benefits is entitled to the following:

1. access to any job training and career development programs offered by the state provided the employee begins participation within one year after the employee's effective lay-off date;
2. inclusion in a special job registry for two years from the employee's effective lay-off date or two years from the employee's completion of job training, whichever is later; and
3. continuation of coverage by the state's group health insurance plan and of the agency's contribution to the employee's insurance premium for six months from the employee's effective lay-off date or until the employee becomes employed, whichever occurs first.

Additionally, a laid-off employee who chooses State Employee Protection Act benefits and who is subsequently transferred to a different position in any state agency is also entitled to:

1. the same hourly pay rate as previously received if the new position is in the same occupation and pay band or a higher pay band than the position the employee previously held;
2. retain all accrued sick leave credits. The credits are not transferred when an employee accepts temporary or short-term employment in another state agency;
3. retain annual leave credits, cash out annual leave credits, or use accrued leave credits to extend the employee's layoff date. The credits are not transferred when an employee accepts temporary or short-term employment in another state agency; and
4. relocation expenses as provided in the hiring agency's policy.

A laid-off employee who elects to retain sick leave, annual leave or both may subsequently submit a written request to cash out the leave at any time during the one-year reinstatement period or the State Employee Protection Act benefit period. At the end of the State Employee Protection Act benefit period, provided the employee elected these benefits, agency managers must cash out all leave balances and effectively terminate the employment relationship.

Montana state government may elect to provide severance pay and a retraining allowance to laid off employees (2-18-622, MCA). Severance

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pay and retraining allowances are mandatory subjects of bargaining in work units covered by collective bargaining agreements.

#### **H. Job Registry:**

The State Human Resources Division administers the job registry. A laid-off employee who chooses to participate in the job registry must complete the Job Registry Participant Information Form and a State of Montana Employment Application and email to the Job Registry. Agency managers are encouraged to consider laid-off employees included in the job registry before recruiting from the public.

If a laid-off employee is hired from the job registry, the employee's years of continuous employment up to the effective lay-off date must be restored. The employee is reemployed with permanent status and will not be required to serve the qualifying period for use of annual and sick leave. Any leave the employee elected to retain transfers to the hiring agency.

A laid-off employee who accepts permanent employment at a lower hourly salary or who accepts seasonal, temporary, or short-term employment may continue participation in the job registry. An employee's eligibility to participate in the job registry ends when:

1. the employee secures employment with an hourly salary equal to or higher than the position from which the employee was laid off;
2. an employee notifies the State Human Resources Division in writing that he or she no longer wishes to participate; or
3. two years have elapsed, either since the employee's effective date of lay-off or since the date of the employee's completion of job training whichever is later (2-18-1203, MCA).

The public employment hiring preferences for veterans, persons with disabilities, and American Indians do not apply when agencies consider participants from the job registry, because it is not an initial hiring (39-30-103, MCA).

When an agency hires a job registry participant, the agency shall notify the State Human Resources Division.

#### **I. Reinstatement:**

Agency managers shall offer reinstatement to the laid-off employee if the same position or a position in the same occupation in the employing agency becomes available within one year of the employee's lay-off date. Agency managers shall offer reinstatement on a "last-out, first-in" basis within an occupation.

A reinstatement offer must be made in writing and contain the response requirements and the consequences of failure to respond. The laid off employee has five working days to accept or reject the reinstatement

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offer. The employee shall respond in writing. If the employee rejects or fails to respond to a reinstatement offer, the employee loses all rights to:

1. the employment offered;
2. compete in internal recruitment efforts;
3. reinstatement; and
4. longevity restoration.

A laid-off employee who accepts a permanent, seasonal, or temporary position in another state agency, does not forfeit their right to reinstatement with the agency that laid off the employee.

Deleted: to the original position

An employee affected by a reduction in force may compete for a position as an internal applicant in the original employing agency for one year from the employee's effective lay-off date. The agency is not required to offer the position internally if the agency's policy or usual practice would not require it.

If a laid-off employee is reinstated within one year, the employee's years of continuous employment up to the effective lay-off date must be restored. The employee is reinstated with permanent status if the employee had attained permanent status prior to the layoff date.

#### Resources:

The State Human Resources Division publishes a Reduction in Work Force Guide. The guide is available at <http://hr.mt.gov/hrpp/policiesguides.mcpX>.

The job registry is on the MINE page under Personnel/HR Officer Resources: <http://mine.mt.gov/personnel/officers/default.mcpX>.

Job Registry email is [jobregistry@mt.gov](mailto:jobregistry@mt.gov)

Job Registry forms and documents are at located at <http://hr.mt.gov/hrpp/policiesguides.mcpX> under the Reduction in Work Force guide.

#### Definitions:

All definitions under 2-18-101, MCA apply to this policy. The following definitions also apply.

**Effective lay-off date** – is the date agency managers determine will be the last day of work for an employee.

Deleted: For the purposes of this policy, the following definitions apply:¶

**Job Registry** - a special job registry from which all agencies may attempt to hire laid-off employees prior to seeking applications from the general public.

**Reduction in work force** – a management action taken for non-

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disciplinary reasons in which an employee is laid-off from employment. The reduction may take place for reasons including, but not limited to: elimination of programs, reduction in FTE, lack of work, lack of funds, expiration of grants, reorganization of an agency, or privatization of a service traditionally provided by an employee of a department.

**Reinstatement Period** – is one year from the effective date of layoff.

**Termination Date** – is the date the laid-off employee is no longer eligible for reinstatement or to benefits provided under the State Employee Protection Act. The termination is considered a break in continuous employment, as defined in 2-18-601(4), MCA, for purposes of longevity, sick leave and annual leave, and therefore ends permanent status.

**Work Days** – are the days on which the position in question is regularly scheduled to work.

Additional definitions can be found under 2-18-1202, MCA.